

Ms Fiona McLeay
Victorian Legal Services Commissioner
Level 5
555 Bourke Street
Melbourne VIC 3000

Dear Ms McLeay,

Office of the Victorian Legal Services Commissioner – Corruption Complaint

For the past decade I have been the victim of corrupt conduct on the part of various officers employed by the Victorian Legal Services Commissioner (VLSC).

This corrupt conduct commenced under your predecessor, Mr Michael McGarvie, and has been perpetuated during your tenure as Legal Services Commissioner. My attempts to have you deal with serious misconduct (such misconduct manifesting as professional misconduct, misconduct in public office and possibly criminal conduct) perpetrated by various members of your staff and their supervisors have come to nought. Indeed, it is my belief that you have been actively involved in having this corrupt conduct covered up.

It is my conclusion and belief that a culture of corruption has developed in the office of the VLSC, such that your role as Legal Services Commissioner is now untenable. Accordingly, I call upon you to resign immediately.

What follows is a basic chronology of events that demonstrate the emergence of the culture of corruption that now taints both you and your office. I accept that it is incomplete and lacks detail, but I have decided to be as brief as possible at this stage. Full details of each incident in the dot-points below will be fleshed-out, with confirming evidence provided in due course.

Background

About 15 years ago I had developed a real estate sales concept that was gaining momentum in the real estate and legal industries. This concept (legal practitioners assisting their clients to sell real estate without engaging an estate agent) also attracted the attention of the Real Estate Institute of Victoria (REIV), the peak body representing real estate agents in Victoria.

The REIV attempted to influence the Law Institute of Victoria (LIV) (as will be confirmed by a former LIV Inspector), and also Consumer Affairs Victoria (CAV).

After no less than 3 investigations into my business model, CAV confirmed to me in writing that it had no concerns, so long as my law firm remained 'compliant'. Despite repeated requests for CAV to define 'compliant' and requests for guidance on what CAV required of me to remain 'compliant', CAV would not assist. For the next 5 years I operated my business model unhindered by the REIV or CAV.

It was when I attempted to franchise my business model and I sought confirmation from CAV that my pilot franchisee would be regarded as similarly 'compliant' that CAV (presumably under pressure from the REIV) surreptitiously initiated Supreme Court proceedings against me. The first I became aware that CAV was making a move against me and my law firm was when

I was served with a Supreme Court writ. The conduct of CAV in the circumstances was highly improper and contrary to CAV's own Model Litigant Guidelines.

The person primarily responsible for CAV's Supreme Court action was Mr Blair Ussher, Solicitor to the Director of Consumer Affairs.

Subsequent to the Supreme Court proceedings Mr Ussher wrote to me, demanding that I should pay thousands of dollars to place newspaper advertisements, failing which he would have me charged on false allegations of Contempt of Court. You hold a file relating to a complaint Mr Ussher made against me when I accused him of the criminal offence of Blackmail under Section 87 *Crimes Act 1958*).

Blair Ussher Blackmail Complaint

I had published material in which I stated that Mr Blair Ussher had blackmailed me, thereby committing the criminal offence of blackmail. Mr Ussher threatened defamation action against me, which I ignored as I was in a position to prove the truth of my allegation.

Realising that litigation would not go in his favour, Mr Ussher lodged a formal complaint with the Victorian Legal Services Commissioner who, at that time, was your predecessor Mr Michael McGarvie.

I became aware of Mr Ussher's complaint when I received a telephone call from your office. I was told that a formal complaint had been made and that, "*Mr Ussher is very upset*". This comment, together with the general thrust and tone of the call indicated to me that Mr Ussher had close links with the officers of the Legal Services Commissioner, and that they were keen to satisfy Mr Ussher without the matter getting out of hand.

I was immediately suspicious of the conduct of the VLSC, as this was clearly a matter for civil litigation, and would not properly become a matter for the VLSC unless and until it could be demonstrated that my very serious allegation was made in the knowledge that it was false.

In my defence to Mr Ussher's complaint I lodged a counter-complaint against Mr Ussher on the basis that he had indeed blackmailed me, and that such conduct warranted disciplinary action against him.

Although investigators were put in charge of the Ussher matters, Mr Russel Daily (VLSC Executive Director, Complaints & Intervention), appeared to be the person actually steering the investigations. I was concerned about the corrupting of the process when I realised that an important witness had been 'nobbled', a document relied upon by the VLSC may have been fabricated and was withheld so that I had no knowledge of its content, and my complaint against Mr Ussher was summarily dismissed without reasons being given.

Although my complaint against Mr Ussher was aborted before it began, Mr Ussher's complaint against me continued, and was drawn out over a long period of time. It was my belief that Mr Daily's intention was to wear me down to the point that I would accept a finding of 'Unsatisfactory Professional Conduct', which Mr Daily would finalise as an internal VLSC matter.

The investigation concluded with Mr Daily's advising me that he was likely to find against me, and asking me for a final submission. My final submission was a full *prima facie* brief confirming that Mr Ussher had indeed blackmailed me. Mr Ussher's complaint against me was then summarily dismissed.

With Mr Ussher's complaint having been dismissed, I then sought to have my complaint against him pursued. The VLSC refused to investigate, stating that the matter had been dismissed and that the VLSC was under no obligation to reconsider that decision. Disgusted

with such corrupt and biased conduct, I lodged a formal complaint with the Victorian Ombudsman. After months of prevarication the Victorian Ombudsman closed the matter, stating that the VLSC was entitled to refuse to investigate the Ussher matter.

I note that Mr Ussher has since been elevated to the position equating that of 'judge', as a sessional member of the Victorian Civil and Administrative Tribunal (VCAT), something that is unlikely to have happened if Mr Ussher had been under investigation at the time, or had been found guilty of a criminal or disciplinary offence.

I believe that Mr Russel Daily and Mr Michael McGarvie were infuriated by my complaint to the Victorian Ombudsman, and that my having complained generated feelings of animosity and a desire for retribution that led to an ongoing campaign, the purpose of which has been to drive me out of the legal profession and thereby give a semblance of legitimacy to their conduct.

Ongoing Harassment and Intimidation

In addition to the corrupt conduct of VLSC staff in relation to the Blair Ussher blackmail complaint matters, I have been subjected to what I would describe as 'special treatment' by the VLSC, basic details of which are as follows:

- A contrived finding by the VLSC that I was not a 'fit and proper person' to hold a practising certificate.
- An improper collaboration between Senior Investigator Luke Priday and Licensing Officer Daniel Deeks in order to pervert the investigation of the VLSC into my being a 'fit and proper' person.
- The deliberate fabrication of evidence by Senior Investigator Luke Priday to pervert the investigation of the VLSC into my being a 'fit and proper' person.
- An attempt by Michael McGarvie as VLSC to coerce me to admit to having engaged in 'unsatisfactory professional conduct'.
- Being forced under duress to accede to my 2017-2018 practising certificate being endorsed with conditions as a consequence of my refusal to admit to having engaged in 'unsatisfactory professional conduct'.
- Improper conduct of Senior Investigator Luke Priday before VCAT, including misleading the tribunal and misleading learned counsel.
- Improper conduct by Ms Fiona McLeay in failing to investigate a complaint of serious professional misconduct against Senior Investigator Luke Priday, including a warning that he may commit perjury in an upcoming VCAT hearing.
- Improper conduct by Ms Fiona McLeay in (according to testimony of Senior Investigator Priday) withholding from Senior Investigator Priday a letter (the letter) in which it was stated that he may commit perjury at a forthcoming VCAT hearing.

- Improper conduct by Ms Fiona McLeay in allowing Senior Investigator Priday to give evidence under oath to VCAT without (according to Senior Investigator Priday) providing him a with a copy of the letter.
- Improper conduct by Ms Fiona McLeay in failing to provide a copy the letter to learned counsel representing her.
- Improper conduct by Manager of Disciplinary Investigations Tina Stagliano in failing to properly investigate a serious complaint of professional misconduct against Senior Investigator Luke Priday.
- Improper conduct by Ms Fiona McLeay in allowing Manager of Disciplinary Investigations Tina Stagliano to avoid investigating allegations of serious professional misconduct against Senior Investigator Luke Priday.
- Improper conduct by Ms Fiona McLeay in refusing to remove Senior Investigator Luke Priday from an investigation when his role as investigator was patently untenable.
- Improper conduct by Ms Fiona McLeay in refusing to investigate a formal complaint of serious professional misconduct by Senior Investigator Luke Priday which was also likely to require investigation by police into perjury and perverting the course of justice, and also IBAC in relation to corrupt conduct.
- Improper conduct by Ms Fiona McLeay in failing to refer allegations of serious misconduct against Senior Investigator Luke Priday to police and to IBAC.
- Improper conduct by Ms Fiona McLeay in allowing investigations to be extended such that the delays constituted a form of harassment and bullying.
- Improper conduct by Manager of Disciplinary Investigations Tina Stagliano in supporting Senior Investigator Luke Priday in a course of harassment and bullying.
- Improper conduct by Ms Fiona McLeay in endorsing my 2018-2019 practising certificate with unnecessary and unwarranted conditions, constituting a form of harassment and bullying.
- Improper conduct by Ms Fiona McLeay in refusing to renew my practising certificate for 2019-2020 without providing any explanation for doing so.
- Improper conduct by Ms Fiona McLeay in failing to respond to communications, and knowingly causing stress and anxiety for me, my family and staff, constituting a form of harassment and bullying.

These are just some of the issues that form the basis of my complaint of VLSC corruption. Added to this is what I believe to be a dishonest and corrupt attempt by you to use my practising certificate as a means to bargain with me.

It is my belief that you delegated to Ms Daniela Iacono, as Acting Manager, Discipline & Suitability, responsibility for negotiating with me in an effort to have me withdraw my complaints against Senior Investigator Luke Friday, yourself and other corrupt VLSC officers.

I also believe that the renewal of my practising certificate has been deliberately delayed in the expectation that I would become so emotionally and mentally exhausted that that I would agree, among other things, to withdraw my recent complaint against Mr Craig Green and to abandon my intended IBAC complaints.

I will no longer request that you renew my practising certificate as I believe that this should be a decision for your successor. At this stage all I ask is that you indicate to me any specific allegation in this letter that you believe may be inaccurate.

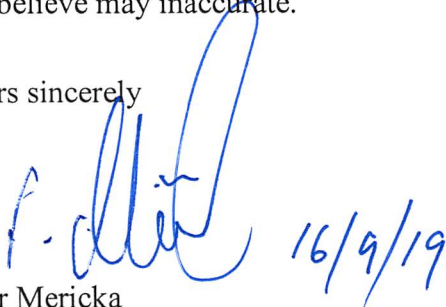
It is my intention to publish this letter in social media and to provide it to the print media, in order to draw attention to the need for action to be taken to end your campaign of harassment and intimidation and to address the corrupt culture that has developed in your office.

The reason for my going public in the initial stages is that my experience in using formal avenues of complaint and redress causes me to suspect that you may have the wherewithal to influence, delay or otherwise impede such processes.

I will be fair and even-handed in my reporting of each incident and element of my allegations, providing supporting material in the form of letters, emails and audio recordings.

I will allow a period of 3 business days for you to notify me of anything in the above dot-points you believe may inaccurate.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'P. Mericka', followed by the date '16/9/19' written in the same ink.

Peter Mericka
Legal Practitioner
Lawyers Real Estate Pty Ltd
Shop 6, 3-5 Hewish Road
Croydon 3136

Telephone: 9726 2700